

# House File 489 - Introduced

HOUSE FILE 489

BY ALONS

## A BILL FOR

- 1 An Act relating to the application of foreign laws, and
- 2 including effective date provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **537C.1 Definition.**

2     As used in this chapter, "*foreign law, legal code, or system*"  
 3 means any law, legal code, or system of a jurisdiction outside  
 4 of any state or territory of the United States, including but  
 5 not limited to international organizations and tribunals, and  
 6 applied by that jurisdiction's courts, administrative bodies,  
 7 or other formal or informal tribunals.

8     Sec. 2. NEW SECTION.   **537C.2 Comity.**

9     It is the public policy of this state that the primary factor  
 10 which a court, administrative agency, arbitrator, mediator, or  
 11 other entity or person acting under the authority of state law  
 12 shall consider in granting comity to a decision rendered under  
 13 any foreign law, legal code, or system against a person in this  
 14 state is whether the decision rendered violated any right of  
 15 the person in this state guaranteed by the Constitution of the  
 16 State of Iowa, the Constitution of the United States, or any  
 17 statute enacted or decision issued under the constitution of  
 18 the state of Iowa or the United States.

19     Sec. 3. NEW SECTION.   **537C.3 Interpretation — foreign law.**

20     If any contract, arbitration agreement, or other agreement  
 21 provides for the choice of a foreign law, legal code, or  
 22 system to govern its interpretation or resolution of any claim  
 23 or dispute and if the enforcement or interpretation of the  
 24 contract, arbitration agreement, or other agreement applying  
 25 that choice of law provision either resulted or would result  
 26 in a violation of any guaranteed right by the Constitution of  
 27 the State of Iowa or the Constitution of the United States, it  
 28 is the public policy of this state that the primary factor in  
 29 interpretation, enforcement, or application of the contract,  
 30 arbitration agreement, or other agreement shall be preservation  
 31 of the constitutional rights of the person in this state  
 32 against whom enforcement is sought, unless otherwise directed  
 33 by another provision of the law.

34     Sec. 4. NEW SECTION.   **537C.4 Voluntary restriction of**  
 35 **constitutional rights.**

1 This chapter shall not be construed to limit the right  
 2 of a person of this state to voluntarily restrict or limit  
 3 the constitutional rights of a person by contract or waiver.  
 4 However, the language of any such contract or other waiver  
 5 shall be strictly construed in favor of preserving the  
 6 constitutional rights of the person of this state.

7 Sec. 5. NEW SECTION. 537C.5 Venue.

8 If any contract, arbitration agreement, or other agreement  
 9 provides for the choice of venue or forum outside any state  
 10 or territory of the United States and if the enforcement or  
 11 interpretation of the contract, arbitration agreement, or  
 12 other agreement applying that choice of venue or forum either  
 13 resulted or would result in a violation of any guaranteed right  
 14 by the Constitution of the State of Iowa or the Constitution  
 15 of the United States, it is the public policy of this state  
 16 that in interpreting or construing the contract or arbitration  
 17 agreement, the primary factor to be considered is whether  
 18 the contract or arbitration agreement can be interpreted or  
 19 construed to preserve the constitutional rights of the person  
 20 in this state against whom enforcement is sought.

21 Sec. 6. NEW SECTION. 537C.6 Forum non conveniens.

22 If a person of this state, subject to personal jurisdiction  
 23 in this state, seeks to maintain litigation, arbitration,  
 24 agency, or similarly binding proceedings in this state and if  
 25 the courts of this state find that granting a claim of forum  
 26 non conveniens or a related claim violates or would likely  
 27 violate the constitutional rights of the nonclaimant in the  
 28 foreign forum with respect to the matter in dispute, it is the  
 29 public policy of this state that the claim shall be denied.

30 Sec. 7. NEW SECTION. 537C.7 Applicability.

31 This chapter does not apply to a corporation, partnership,  
 32 or other business entity.

33 Sec. 8. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
 34 immediate importance, takes effect upon enactment.

35 EXPLANATION

1     This bill relates to the application of foreign laws.

2     As used in the bill, "foreign law" means any law, legal  
3 code, or system of a jurisdiction outside of any state or  
4 territory of the United States, including but not limited to  
5 international organizations and tribunals, and applied by that  
6 jurisdiction's courts, administrative bodies, or other formal  
7 or informal tribunals.

8     The bill establishes it is the public policy of this state  
9 that the primary factor a court, administrative agency,  
10 arbitrator, mediator, or other entity or person acting under  
11 the authority of this state shall consider is whether the  
12 decision of a foreign court or similar body rendered against a  
13 person of this state violated any constitutional rights of the  
14 person, prior to granting comity to such a decision.

15     Under the bill, if any contract, arbitration agreement,  
16 or other agreement provides for the choice of a foreign  
17 law to govern its interpretation or resolution of any claim  
18 or dispute and if the enforcement or interpretation of the  
19 contract, arbitration agreement, or other agreement applying  
20 that choice of law provision results in a violation of any  
21 guaranteed constitutional rights, the bill establishes that it  
22 is the public policy of this state that the primary factor in  
23 interpretation, enforcement, or application of the contract,  
24 arbitration agreement, or other agreement shall be preservation  
25 of the constitutional rights of the person in this state,  
26 unless otherwise directed by another provision of the law.

27     Under the bill, if any contract or agreement provides for  
28 the choice of venue or forum outside any state or territory of  
29 the United States and if the enforcement or interpretation of  
30 the contract or agreement applying the choice of venue or forum  
31 results in a violation of any guaranteed constitutional rights,  
32 the bill establishes that it is the public policy of this state  
33 that in interpreting or construing the contract or agreement,  
34 the primary factor to be considered is whether it can be  
35 interpreted or construed to preserve the constitutional rights

1 of the person in this state against whom enforcement is sought.

2 If a person of this state, subject to personal jurisdiction  
3 in this state, seeks to maintain litigation, arbitration,  
4 agency, or similarly binding proceedings in this state and if  
5 the courts of this state find that granting a claim of forum  
6 non conveniens or a related claim violates the constitutional  
7 rights of the nonclaimant in the foreign forum with respect  
8 to the matter in dispute, the bill establishes that it is the  
9 public policy of this state that the claim be denied.

10 The bill does not apply to a corporation, partnership, or  
11 other business entity.

12 The bill takes effect upon enactment.